

FINDING OF NO SIGNIFICANT IMPACT
TENNESSEE VALLEY AUTHORITY
ELK RIVER RESORT
PROPOSED RECREATION EASEMENT AND MARINA FACILITIES
Wheeler Reservoir
Lauderdale County, Alabama

Proposed Action and Need

Tennessee Valley Authority (TVA) is considering a request for a 30-year easement for the development of a commercial recreation area on approximately 91 acres of TVA property on Elk River in Lauderdale County, Alabama. The TVA property is identified as Tract XWR-21PT in the Wheeler Reservoir Land Management Plan (Plan) and was allocated for Commercial Recreation and Visual Management in the Plan (TVA, 1995). A proposal received from developer Gilbert Doss (the applicant) to construct the Elk River Resort is consistent with the above allocation. The proposed resort, to be developed in five phases, would include a recreational vehicle (RV) park, camping areas, wet slips, fishing piers, dry storage, a ship's store, nature trails, cabins, and a restaurant. For the construction of the resort, TVA would also have to issue approvals under Section 26a of the TVA Act for marina facilities, shoreline stabilization, and 5 culverts on roads to access the facilities. TVA prepared the attached environmental assessment (EA) to help it decide whether to grant the recreational easement and approve the proposed facilities under Section 26a of the TVA Act.

Alternatives

In responding to a request for use of its property consistent with an allocation in its reservoir plan, TVA considered three alternatives in detail: no action, the applicant's proposal, and the applicant's proposal with modifications resulting from TVA's review. Under the No Action Alternative, TVA would not approve the requested easement and marina facilities. Under Alternative B, the applicant's proposal, a commercial campground, marina, and associated facilities would be constructed and operated under a term-easement agreement. The resort would include an RV park, camping areas, nature trails, wet slips, fishing piers, a wave break, dry storage, a ship's store, cabins, and a restaurant.

Alternative C reflects modifications and mitigation measures identified through TVA and public review to reduce environmental impacts. These include buffers to protect wetlands, drainages and the shoreline; visual management practices such as minimizing the height and color of facilities and lighting standards; time-of-year limitations on harvest of potential Indiana bat roost trees; and widening the culvert crossing on CR 77 to allow safe passage of recreational vehicles. A detailed list of these measures appears below in the mitigation section.

Impacts Assessment

Under No Action, TVA Tract XWR-21PT would remain allocated for Commercial Recreation and Visual Management in the Wheeler Reservoir Management Land Plan (Plan). As stated in the Plan, forest and wildlife management would continue as an interim use and TVA may choose to consider applications for commercial recreational development that are consistent with this allocation. Informal recreation on the tract would likely continue, including primitive camping, bank fishing, hunting, and hiking and equestrian use.

Under Alternative B, the Applicant's Proposal, a campground, marina, restaurant, store, and cabins would be constructed on an 80-acre footprint. A private road would be constructed to access the facility from CR 77. These actions would result in vegetation clearing over about 40 acres of the TVA property and along a corridor for the access road. The plant and animal communities potentially impacted are common in the Tennessee Valley region and the amount of disturbance, when considered in the context of the natural communities in the region, is not enough to have an adverse impact on the health of these communities. No adverse effects to rare or endangered plants or animals are projected. Wetlands on the site are not proposed for development, but could be indirectly impacted through the general disturbance in the area. The applicant would adhere to the guidelines of the Clean Marina Program. Implementation of a vegetation management plan and strict adherence to other sediment and erosion control measures, as required by state and federal regulations, would ensure that water quality impacts are insignificant. Impacts from noise and from traffic to the site would be insignificant. Some facilities would be constructed in the reservoir and its floodplain. However, the marina facilities are water-dependent facilities for which there is no practicable alternative to construction in the floodplain. Other resort facilities, including the dry boat storage building, office, cabins, restaurant, camping areas and parking lot would be located above the level of the 100-year floodplain. The number of projected recreational boats added to the reservoir would not significantly increase the number of vessels in the area.

Under Alternative C, The Applicant's Proposal with Mitigation, a campground, marina, restaurant, store, and cabins would be constructed, along with an access road, as in Alternative B. However, TVA would require additional measures to minimize the potential for indirect impacts to water quality, wetlands, visual resources, and traffic to the site. Also, as a precautionary measure, a preconstruction survey for the presence of Indiana bat would take place to confirm that no bats are present. Removal of suitable roosting trees would only be allowed from October 15 through March 15. Compliance with the guidelines of the Clean Marina program would be required by TVA.

Mitigation

As the proposal evolved, the applicant made several modifications to the proposal with the view towards reducing impacts. These include reducing the harbor limits from 1,000 feet to 550 feet from the shoreline, which reduced conflicts with navigation interests. The facility would be an active member of the Clean Marina Program, which offers sewage pump out service and sells environmentally friendly nontoxic products for cleaning and maintenance. The facility would be a recycler of petroleum and other solid waste, and the resort would be constructed with a natural theme. If the facility is approved under Alternative C, TVA would require adherence to standard best management practices for erosion and sediment control. In addition, the following

special mitigation measures would be required as a condition of the TVA Section 26a and land use approval:

- Excavated areas will be sowed with seed prior to completion of construction in order to stabilize banks and prevent erosion into Elk River. A best management practices plan will be developed upon grant of the easement and before construction begins for TVA review and approval. Additionally, all required permits and approvals from federal, state, county and local jurisdictions will be obtained prior to construction.
- Recycling and disposal of petroleum and other solid waste will be available at this facility. A natural theme for this proposed resort will involve maintenance of the infrastructure including keeping the shoreline clean and preventing litter and debris to accumulate.
- No future development will occur in the wetlands present on the site.
- To prevent and suppress forest, grass, and other fires, the applicant will require campfires to be restricted to designated areas within fire rings.
- Wetlands will be protected by maintaining an upland buffer. The buffer will be 125-foot wide at a minimum, and extend to 200 feet in other areas. During construction, the wetlands and the buffers will be temporarily marked with standard orange vinyl construction type fencing and silt fencing so that the wetlands are not inadvertently impacted by heavy equipment, etc.
- A 50-foot managed buffer will be maintained along drainages located within the parcel to reduce the potential for loss of streambank vegetation which could result in erosion. TVA's general and standard conditions will apply to culverts for stream crossings.
- Shoreline buffer zones (50 feet as measured landward from the normal summer pool elevation) will be maintained along the reservoir shoreline and development/structures will be limited in these areas.
- Prior to construction, the applicant will develop and submit for TVA's approval, a vegetation management plan for the maintenance of required buffers along wetlands, stream drainage areas, and the shoreline to prevent erosion. Activities allowed in the buffer areas would be limited to stream crossings (culverts), management of exotic and nuisance vegetation, and siting of a portion of the dry storage building and for marina facilities. These activities will be specifically identified in the vegetation management plan submitted for TVA's approval.
- Context sensitive design practices for visual management provided by TVA to the applicant will be incorporated in the final design, which will be subject to TVA approval. Commitments include minimizing the height of structures (no more than 40 feet) to prevent protrusion above the tree line, requiring land-based structures or facilities constructed within 250 feet of the shoreline and all water-use facilities to be analogous in color to the surrounding environment, and requiring lighting styles with full cut-off optics in order to minimize light trespass and glare.

- Suitable roost trees (live trees and snags with greater than 10 percent exfoliating bark and hollow trees) may only be harvested between October 15 through March 15 provided a survey of the site by a bat biologist shows no Indiana bats to be located on the property.
- To widen the culvert crossing on CR 77 (Barnett Lane), the applicant will pave the two grassed shoulders (3.5 and 2.5 feet) to widen the road to 20 feet (2-10 foot lanes).
- The requirements of the Clean Marina guidelines as well as the requirements of the American with Disabilities Act guidelines will be followed for all facilities in the project area.

Public and Intergovernmental Review

TVA and the USACE provided several opportunities for public review of the proposal. Beginning in June 2005, TVA provided notice of its proposed land use easement in local newspapers. In addition, on August 26, 2005, a Joint Public Notice was issued by USACE, TVA, and the state of Alabama describing the easement and marina project. An EA was released for public review on October 5, 2005, and public meetings to receive comments were subsequently held on October 18, 2005, and February 9, 2006. TVA has considered all comments received, and has made extensive revisions to its final EA in response to these comments. As a result of public concerns about rare plants and potential historic properties, TVA staff conducted additional site surveys and confirmed earlier findings.

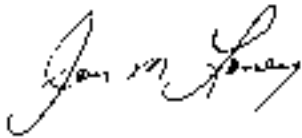
The EA was also mailed to federal, state, and local agencies for comment. Comments were received from the U.S. Fish and Wildlife Service (FWS) and the Alabama State Historic Preservation Officer (SHPO). While FWS agreed that the project would not adversely affect endangered and threatened species, the agency expressed concern about effects to natural resources on the TVA tract and the shoreline. In response, TVA has added additional protection features that would be used to condition its approval of the project. The SHPO reviewed TVA's survey of historic properties on the site and concurred with TVA's finding that no historic properties would be affected.

Conclusion and Findings

The project would not adversely affect endangered and threatened species. Therefore the requirements of Section 7 of the Endangered Species Act have been fulfilled. No historic properties would be affected. For compliance with Section 106 of the National Historic Preservation Act, the Alabama SHPO has concurred that no historic properties would be affected. For compliance with Executive Order 11988 on Floodplain Management, TVA concludes that marina facilities are water dependent and there is no practicable alternative to construction of these facilities in the floodplain. Other facilities, such as the campsites, a dry storage building, and office, would not be constructed in the floodplain. For compliance with Executive Order 11990 on Protection of Wetlands, the wetlands on the site have been avoided and all practicable measures have been taken to minimize indirect impacts to wetlands through provision of buffer zones.

After consideration of the impact analyses and the extensive public comments received, TVA finds that with additional conditions to protect environmental resources, impacts of the proposal would not be significant. While residents of nearby subdivisions have

expressed opposition to the proposal, TVA believes that there is a need for additional public recreation facilities on lower Wheeler Reservoir and that the Elk River Resort proposal is responsive to those recreation demands. Based on the EA, we conclude that approval of a recreation easement over Tract XWR-21PT and Section 26a approval of marina facilities, shoreline stabilization, and culverts associated with access road construction would not be a major federal action significantly affecting the quality of the environment. Accordingly, an environmental impact statement is not required. This Finding of No Significant Impact is contingent upon successful implementation of the measures listed above under "Mitigation," compliance with the provisions of the Section 401 Water Quality Certification, and compliance with TVA's standard Section 26a conditions for water quality protection.



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Date Signed